

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA**

ANTONIO MARTINEZ,

Plaintiff,

v.

JAY JONES, et. al.,

Defendants.

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Civil Action No. 3:06-cv-00480-MEF-VPM

DEFENDANTS' ANSWER

COME NOW Sheriff Jay Jones, Major Cary Torbert, Jr., and Dr. John McFarland, Defendants in the above-styled cause, and answer the Plaintiff's Complaint as follows:

Answer

Defendants deny each and every allegation made by the Plaintiff, Antonio Martinez, and demands strict proof thereof. Defendants deny that they acted, or caused anyone to act, in such a manner so as to deprive the Plaintiff of his constitutional rights.

Affirmative Defenses

1. The Plaintiff's Complaint, separately and severally, fails to state a claim upon which relief may be granted.
2. The Defendants in this action, in their individual capacities, are entitled to qualified immunity from the Plaintiff's claims.
3. The Defendants in this matter, in their official capacities, are entitled to absolute immunity from the Plaintiff's claims pursuant to the Eleventh Amendment to the United States Constitution.
4. Defendants in their official capacities are not "persons" under 42 U.S.C. § 1983.

5. The Plaintiff's claims are barred by the Prison Litigation Reform Act because he has failed to exhaust available administrative remedies and because he has not suffered an injury that is greater than de minimus.

6. Plaintiff fails to allege any affirmative causal link between the alleged acts of Defendants and any alleged constitutional deprivation or Defendants' direct participation in any alleged constitutional violation.

7. Defendants are not liable based upon *respondeat superior* theories of liability.

8. The Plaintiff cannot prove a violation of his rights under the Eighth or Fourteenth Amendments to the United States Constitution.

9. Defendants were not deliberately indifferent in any respect.

10. The Plaintiff's claims for injunctive relief – including his request that safety rails be installed and his request that his medical bills be paid by Defendants - are moot, and the Plaintiff lacks standing to raise these claims.

11. Defendants reserve the right to add additional defenses upon a complete investigation of Plaintiff's claims, completion of any discovery allowed, and if any further pleading is required or allowed by the Court.

Respectfully submitted this the 15th day of August, 2006.

s/Amanda Kay Morgan
AMANDA KAY MORGAN Bar No. ALL079
Attorney for Defendants
WEBB & ELEY, P.C.
7475 Halcyon Pointe Drive (36117)
Post Office Box 240909
Montgomery, Alabama 36124
Telephone: (334) 262-1850
Fax: (334) 262-1889
E-mail: amorgan@webbeley.com

CERTIFICATE OF SERVICE

I hereby certify that on this the 15th day of August, 2006, I have electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and that I have mailed a true and correct copy of the foregoing by United States Mail, postage prepaid, to the following non-CM/ECF participant:

Antonio Martinez
AIS 247206
Kilby Correctional Facility
PO Box 150
Mt. Meigs, AL 36057-0075

s/Amanda Kay Morgan
OF COUNSEL